

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

STUDENTS FOR FAIR
ADMISSIONS INC.,
Plaintiff,

v.

UNIVERSITY OF TEXAS AT AUSTIN; et al.,
Defendants.

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Cause No. 1:20-cv-763-RP

DECLARATION OF MIGUEL WASIELEWSKI

I, Miguel Wasielewski, under penalty of perjury pursuant to 28 U.S.C. § 1746, hereby declare the following facts stated herein are based on my personal knowledge and are true and correct:

1. My name is Miguel Wasielewski. I am the Vice Provost of Admissions at the University of Texas at Austin (“UT Austin”). I have been employed by UT Austin since 1993, and I have worked in UT Austin’s Office of Admissions since 2016. I became UT Austin’s Deputy Director of Admissions in 2017, Director of Admissions in 2018, and Vice Provost of Admissions in 2022.

2. During my employment at UT Austin, I have become personally acquainted with the details of UT Austin’s undergraduate admissions process, and I am one of the officials at UT Austin responsible for developing and implementing UT Austin’s undergraduate admissions policies. I submit this declaration to explain changes that UT Austin has made to its decision-making process for undergraduate admissions following the U.S. Supreme Court’s decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 143 S. Ct. 2141 (2023).

3. At the highest level, undergraduate admissions decisions at UT Austin can be broken down into two broad categories: automatic admission and holistic review admission.

Automatic Admission

4. The majority of UT Austin's undergraduate admissions are "automatic" admits—*i.e.*, applicants admitted under Texas Education Code section 51.803, commonly known as "the Top Ten Percent Law." Since 1998, the Top Ten Percent Law has required UT Austin to offer admission to any student who graduated with a qualifying class rank from any public high school in Texas or from any qualifying private high school in Texas.

5. The Top Ten Percent Law derives its name from the fact that, for most public universities in Texas, the qualifying class rank is a rank falling within the top 10% of a student's high school graduating class. *See* Tex. Educ. Code § 51.803(a). Under a 2009 amendment to the law, however, only 75% of UT Austin's enrollment capacity for first-year Texas resident undergraduates must be offered admission under this law. *See id.* § 51.803(a-1). A result of that change, combined with population increases, is that a higher class rank is now needed to gain automatic admission to UT Austin. For the last several years, for example, the applicable qualifying rank for automatic admission to UT Austin has been at or around the top 6% of the high school graduating class.

6. Because "automatic" admission considers only an applicant's class rank from a qualifying high school, this part of UT Austin's admissions process has never considered an applicant's race and ethnicity (or any other holistic review factors) in determining whether to offer admission to any student.

Holistic Review

7. As to the remaining 25% of its undergraduate resident enrollment capacity (with exceptions, as noted below), UT Austin uses an individualized, holistic review process to consider each completed freshman application.

8. UT Austin also uses this holistic review process for determining the major of students admitted through automatic admission. Applicants to UT Austin must state on their application their

first and second choices for a major. Although the Top Ten Percent Law offers automatic admission to eligible undergraduate applicants, the law does not guarantee admission to an applicant's requested major. All applicants are considered on a competitive basis through holistic review for admission to the majors they request. Certain majors at UT Austin — for example, Computer Science, Engineering, and Natural Sciences — are highly competitive, with many more applicants than spaces available. A student admitted through automatic admission but not one of the majors of their choice is offered admission to a different major at UT Austin.

9. The holistic review process considers the student's high school transcript and an array of factors, including SAT or ACT scores, honors and awards, essays, recommendations, and any special circumstances that put the applicant's academic achievements into context. No specific class rank, test score, or other qualification by itself ensures admission under the holistic review process.

10. The Office of Admissions employs file reviewers to assign each application a holistic review score. The file reviewers are trained to use professional judgment to holistically review a student's application in context using a written rubric that describes the various criteria used to assess candidates for admission. Holistic file reviewers do not make admissions decisions. The holistic review score is incorporated into the ultimate admissions decision later in the process.

Changes to the Holistic Review Process after *SFFA*

11. Before the current admissions cycle, an applicant's race and ethnicity were considered as part of the holistic review process. Prompted by the U.S. Supreme Court's decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 143 S. Ct. 2141 (2023), UT Austin re-examined its admissions policies. Beginning with the current admissions cycle, UT Austin has removed race and ethnicity from the list of factors considered in the holistic review process. Attached as Exhibit 1 is a power point presentation used to train Office of Admissions staff on these changes to UT Austin's admissions policy.

12. The Office of Admissions has made the following specific changes to its admissions policies:

- (1) Applicants' self-supplied demographic "checkbox" information about their race and ethnicity is removed from the application files provided to reviewers during the holistic review process;
- (2) Race and ethnicity have been removed from the rubric as a subfactor that file reviewers consider in the holistic review process;
- (3) Holistic file reviewers have been instructed that an applicant's race and ethnicity cannot be considered in the holistic review process, and that only materials in the applicant's file may be considered;
- (4) Holistic file reviewers have been trained on how to appropriately handle an applicant's self-disclosure of race or ethnicity in essays or other application materials, including that the reviewer may not consider the applicant's race or ethnicity as a positive or negative factor in assigning a holistic review score;
- (5) During holistic review, the admissions office will supervise file reviewers and conduct quality checks to ensure compliance with these procedures; and
- (6) After close of the admissions cycle, UT Austin will conduct a review to identify and address any challenges experienced in the implementation of these changes.

Each of these changes is further explained below.

Removal of demographic information from application file

13. Students seeking admission to UT Austin's undergraduate program use one of two application platforms: "ApplyTexas" or the "Common App." ApplyTexas was created through a collaborative effort between the Texas Higher Education Coordinating Board and Texas colleges and universities to offer a centralized means for both Texas and non-Texas students to apply to the many outstanding postsecondary institutions in Texas. The Common App is a college admissions platform developed by a non-profit member organization representing more than 1,000 higher education institutions, including UT Austin.

14. When students complete their applications for admission using the ApplyTexas or Common App forms, they are provided a prompt to identify their race and ethnicity. For example, this is the part of the ApplyTexas application form that asks about an applicant's "Ethnicity and Race."

14. Ethnicity and Race:
Are you Hispanic or Latino? (a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race)

☐ Yes ☒ No

Please select the racial category or categories with which you most closely identify. Check as many as apply.

20	American Indian or Alaska Native (A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.)
30	Asian (A person having origins in any of the original peoples of the Far East, Southeast Asia or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.)
40	Black or African American (A person having origins in any of the black racial groups of Africa.)
50	Native Hawaiian or Other Pacific Islander (A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.)
60	White (A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.)

15. The particular race/ethnicity categories in the ApplyTexas application were chosen by the Texas Higher Education Coordinating Board pursuant to sections 51.762 and 51.763 of the Texas Education Code, which are consistent with the United States Department of Education's data collection protocols, and which in turn track with the categories used by the United States Census Bureau. The Common App has a similar question about an applicant's race and ethnicity.

16. On both ApplyTexas and the Common App, responding to the inquiry regarding race and ethnicity is optional — *i.e.*, providing information on race and ethnicity is voluntary and not required to submit a complete application to UT Austin.

17. Before the current admissions cycle, an applicant's response to the race and ethnicity question was included in the application materials provided to holistic file reviewers. But beginning with the current admissions cycle, this information on race and ethnicity is redacted from the application file materials provided to holistic file reviewers. Holistic file reviewers are further instructed not to consider any information about an applicant outside of the application file materials

provided to them by the admissions office in evaluating an applicant and assigning a holistic review score.

18. UT Austin continues to use the data collected from the race and ethnicity inquiry on the ApplyTexas and Common App for purposes other than admissions decisions. For example, Section 51.4032 of the Texas Education Code requires UT Austin to publish an annual report “describing the composition of the institution’s entering class of students,” “including a breakdown by race, ethnicity, economic status, and high school class standing.” But UT Austin no longer considers an applicant’s race and ethnicity as part of the process for making admissions decisions for individual applicants.

Removal of race and ethnicity as a subfactor.

19. UT Austin’s Office of Admissions uses a written rubric to guide file readers in their review of student application materials as they assign holistic review scores. The Office of Admissions’ training instructs file reviewers that the factors in the rubric are not susceptible to a formulaic application, but instead are to be considered in the context of the student’s complete file as a score is assigned.

20. Before the 2023 admissions cycle, “race and ethnicity” was listed as a subfactor on the rubric provided to holistic file reviewers as part of a list of special personal circumstances that holistic file reviewers were instructed to consider in order to put the applicant’s academic achievements into context.

21. Starting with the current admissions cycle, UT Austin has removed “race and ethnicity” from the rubric, and the Office of Admission instructs holistic file reviewers that an applicant’s race or ethnicity may not be considered as a factor in assigning a holistic review score.

Training on applicant's self-disclosure of race and ethnicity

22. UT Austin's application includes essay prompts that allow applicants the opportunity to write about themselves and their life experiences. These are the essay prompts in the application for all undergraduate colleges at UT Austin this admissions cycle:

Tell us your story. What unique opportunities or challenges have you experienced throughout your high school career that have shaped who you are today?

Why are you interested in the major you indicated as your first-choice major?

Describe how your experiences, perspectives, talents, and/or your involvement in leadership activities (at your school, job, community or within your family) will help you to make an impact both in and out of the classroom while enrolled at UT.

The core purpose of The University of Texas at Austin is, "To Transform Lives for the Benefit of Society." Please share how you believe your experience at UT Austin will prepare you to "Change the World" after you graduate.

Please share background on events or special circumstances that you feel may have impacted your high school academic performance.

23. Essay responses are included in the application materials provided to holistic file reviewers and are considered by file reviewers in assigning a holistic review score. In addition, applicants who believe that supplemental items will help convey information about their qualifications are encouraged to submit such items with their applications. Supplemental items often include expanded resumes of accomplishments and extracurricular activities, and letters of recommendation.

24. It is possible that an applicant may disclose their race or ethnicity as part of their response to an essay prompt. It is also possible that supplemental application materials, such as a resume or letter of recommendation, may indicate an applicant's race or ethnicity.

25. The Office of Admissions instructs file reviewers that if any application materials disclose the applicant's race or ethnicity—whether in an essay, a letter of recommendation, or otherwise—the file reviewer may not consider the applicant's race or ethnicity as a positive or negative

factor in assigning a holistic review score. In the training materials attached as Exhibit 1-A, PowerPoint slides 17 to 23 provide specific examples of how holistic file reviewers should handle an applicant's self-disclosure of race or ethnicity in certain hypothetical situations:

- If an applicant writes an essay about overcoming racial discrimination, the reviewer could give positive consideration to something that the experience reveals about their personal character (such as motivation or maturity or adaptability), but the reviewer could not give any positive or negative consideration to the fact that the applicant is of a particular race.
- If an applicant writes about their experience attaining a leadership position in a high school where most of the students were of a different race, the reviewer could give positive consideration to the applicant's demonstrated leadership potential or their skill in effectively representing their fellow students' interests, but the reviewer could not give any consideration (positive or negative) to the fact that the applicant is of a particular race.
- If an applicant explains in an essay that their desire to pursue a particular field of study (such as social work, law, or medicine) stems from their personal experiences with racial discrimination, then the reviewer may consider that personal history in understanding the applicant's academic focus, the depth of their commitment to their chosen field, and the attributes reflected in their previous experiences overcoming challenges and adversity. But any such consideration should not be based on, or vary depending on, the applicant's race.
- If an applicant mentions or discusses their race without providing a meaningful connection to some desirable quality other than race, the reviewer may consider any relevant skills or qualities demonstrated by the essay, for example, the applicant's ability to write or responsiveness to the essay prompt, but must disregard the applicant's mention of race.
- If an applicant states in an essay that they will contribute to diversity on campus or in the classroom at UT Austin because they are a member of an underrepresented race, the reviewer may not give this statement by itself any positive or negative consideration. But the reviewer may consider any relevant skills or qualities demonstrated by the essay, for example, the applicant's ability to write or responsiveness to the essay prompt.
- If an applicant wrote an essay about excelling in English Literature classes despite growing up in a non-English-speaking household, the reviewer may positively consider the applicant's multi-language fluency or their demonstrated ability to overcome obstacles, but cannot attach any weight to their race.
- If an applicant's essay discusses their role in an organization centered around race (Hispanic Students Association, for example), the reviewer might give positive consideration to the applicant's activities or achievements within the organization (awards, leadership experience,

impactful community projects), but could not give the applicant any bonus simply for identifying as a member of a particular racial group or race-centered organization.

As part of this training, holistic file reviewers are instructed to focus on the nature and extent of an applicant's individual achievements, not the applicant's race or ethnicity.

Supervision of holistic file reviewers

26. During each admissions cycle, all file reviewers receive training on holistic review to ensure consistency in scoring. Furthermore, throughout each cycle, the Office of Admissions conducts regular checks of the work of holistic file reviewers to ensure that reviewers are scoring applicants consistently. In addition, the file of each applicant from Texas is scored independently by two holistic file reviewers. If the scores assigned are two or more points apart, the file is reviewed and scored by a third, more senior member of the Office of Admissions. As part of this quality control process this cycle, the Office of Admissions will monitor file reviewers to ensure compliance with the recent changes to its admissions policies on race and ethnicity.

Post-admissions cycle review

27. Following the conclusion of the current admissions cycle, the Office of Admissions intends to conduct a review to identify and address any challenges experienced in the implementation of the changes introduced this cycle. It is the intent of the Office of Admissions to make any changes necessary to those policies or the training and supervision of Office of Admissions staff to ensure that race and ethnicity are not considered as factors in UT Austin's undergraduate admissions.

Scoring Matrix

28. In addition to the holistic review scoring process outlined above, UT Austin's admissions process generally involves assigning applicants an Academic Index ("AI"), which is which is a number derived from the processing of various inputs, such as high school GPA and rank, through

a formula . The AI is closely related to a metric UT Austin uses in the placement of students called the predicted GPA (grade point average). Information about race and ethnicity plays no role in the calculation of an applicant's AI or predicted GPA.

29. The Office of Admissions uses holistic review scores and the AI to generate a matrix for each academic program at UT Austin (other than those programs described below in paragraph 30). On each matrix, holistic review scores are plotted on the vertical left axis ascending from 1 to 6 in whole-number increments; AI scores are plotted on the horizontal bottom axis, starting at the far left with the highest possible score and descending incrementally to the lowest possible score. Thus, the cell that represents the highest combination of AI and holistic review scores is located in the top left-hand corner of the matrix, and the lowest combination can be found in the bottom right-hand corner. All applicants with the same AI and holistic review score combination will be placed in the same cell on the matrix. The admissions office then undergoes a stair-stepped selection process in which individual cells are designated for admission, beginning with the top-left of the matrix and progressing in the direction of the bottom right corner of the matrix. The process of selecting cells in this fashion is repeated until all available slots for an entering class within the particular pool are filled. No consideration is given to race or ethnicity by the admissions office as they work through the line-drawing process in connection with each matrix.

Admissions beyond automatic admits and holistic review

30. A relatively small number of applicants to UT Austin go through an additional admissions process after automatic admission and holistic review. Students seeking admission to the College of Nursing, the College of Fine Arts, and the School of Architecture are evaluated by each school using its own unique decision-making process. For example, a live, in-person audition is generally required for students seeking admission to the Butler School of Music in the College of Fine

Arts. Race and ethnicity are not factors in admissions in these additional admissions processes for these schools.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT.

EXECUTED on October 26, 2023.

DocuSigned by:
Miguel Wasielewski
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Miguel Wasielewski
Vice Provost of Admissions
University of Texas at Austin